

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----x

UNITED STATES OF AMERICA,

v.

19 CR 536 (PKC)

DANIEL RODRIGUEZ,
GLORIA RODRIGUEZ GONZALEZ,
ANABEL COLON REYES,
DEEJAY WHITE,
JASON MARTINEZ,

Defendants.

Arraignment (by phone)

-----x

New York, N.Y.
October 13, 2020
4:00 p.m.

Before:

HON. P. KEVIN CASTEL,

District Judge

APPEARANCES

AUDREY STRAUSS

Acting United States Attorney for the
Southern District of New York

BY: JULIANNA MURRAY

RYAN FINKEL

Assistant United States Attorneys

KELLY J. SHARKEY

Attorney for Defendant Rodriguez

HOWARD R. LEADER

Attorney for Defendant Rodriguez Gonzalez

DONALD H. VOGELMAN

Attorney for Defendant Colon Reyes

DONALDSON CHILLIEST & McDANIEL, LLP

Attorneys for Defendant White

BY: XAVIER R. DONALDSON

DEBEVOISE & PLIMPTON LLP

Attorneys for Defendant Martinez

BY: HELEN V. CANTWELL

ROBERT PAPAZIAN

1 (Case called)

2 THE COURT: This is United States of America against
3 Daniel Rodriguez, Gloria Rodriguez Gonzalez, Anabel Colon
4 Reyes, Deejay White, and Jason Martinez.

5 Is the government ready?

6 MS. MURRAY: Yes, your Honor. Good afternoon.
7 Juliana Murray on behalf of the United States.

8 THE COURT: Anyone else appearing for the government
9 today?

10 MS. MURRAY: Just me today, your Honor.

11 THE COURT: Thank you.

12 Appearing for Daniel Rodriguez.

13 MS. SHARKEY: Good afternoon, Judge, it's Kelley
14 Sharkey, counsel for Daniel Rodriguez.

15 THE COURT: Good afternoon, Ms. Sharkey.

16 For defendant Gloria Rodriguez Gonzalez.

17 MR. LEADER: Good afternoon, your Honor, this is
18 Howard Leader appearing on behalf of Ms. Gonzalez Rodriguez.

19 THE COURT: Good afternoon, Mr. Leader.

20 And for Anabel Colon Reyes.

21 MR. VOGELMAN: Good afternoon, your Honor, this is
22 Donald Vogelmann, appearing for Anabel Colon Reyes.

23 THE COURT: And for Deejay White.

24 MR. DONALDSON: Good afternoon, your Honor, this is
25 Xavier R. Donaldson for Mr. Deejay White. Good afternoon,

1 everyone.

2 THE COURT: And for Jason Martinez.

3 MS. CANTWELL: Your Honor, Helen Cantwell and Robert
4 Papazian from Debevoise are on the phone. We are CJA counsel
5 today, and I think we are being appointed to represent
6 Mr. Martinez.

7 THE COURT: You are. And you are hereby appointed if
8 you will accept the appointment.

9 MS. CANTWELL: I will. I do need a copy of the fifth
10 superseding indictment, which I think is the one that names my
11 client. But once we get that, I think we will be ready to go.

12 THE COURT: If you have -- I see your e-mail address.
13 If you will just bear with me, I think --

14 MS. CANTWELL: That would be great. We checked the
15 docket today, but it had not yet posted.

16 Your Honor, magically someone just e-mailed it to me.

17 THE COURT: That's wonderful. I believe in magic, so
18 that's wonderful. Thank you.

19 First of all, let me take it from the top with regard
20 to your client's waiver of the right to be physically at this
21 conference or otherwise physically, telephonically, or by video
22 transmission participate in this conference.

23 For Daniel Rodriguez.

24 MS. SHARKEY: Yes, Judge. Mr. Rodriguez consents. I
25 also read him the new indictment. He enters a plea of not

1 guilty or I enter a plea of not guilty on his behalf with his
2 permission.

3 THE COURT: Thank you, Ms. Sharkey.

4 Let me just ask one other question. So the three
5 questions will be: One, about waiver of appearing; two,
6 receipt and review of the S5 superseding indictment; and,
7 three, the plea.

8 Ms. Sharkey, the three questions, if you don't mind.

9 MS. SHARKEY: Of course, your Honor.

10 Judge, on behalf of Daniel Rodriguez, with his
11 permission and understanding his rights, he waives his
12 appearance at this procedure. Mr. Rodriguez was read the S5
13 indictment by me to him over the phone. He advised that he
14 understands it and advised me to enter a plea of not guilty on
15 his behalf at this proceeding.

16 THE COURT: He waives the right to be physically
17 present for a public reading, is that correct?

18 MS. SHARKEY: That's correct, Judge.

19 THE COURT: Same questions for Mr. Leader on behalf of
20 Gloria Rodriguez Gonzalez.

21 MR. LEADER: Yes, your Honor. I, like Ms. Sharkey,
22 have consulted with Ms. Rodriguez Gonzalez by telephone. She
23 understands the right to be present at this proceeding and
24 consents to waive that right. I also reviewed with her by
25 telephone the S5 indictment. She has advised me that she

1 wishes to have me enter on her behalf a plea of not guilty at
2 this time.

3 THE COURT: Thank you, Mr. Leader.

4 Mr. Vogelmann, for Anabel Colon Reyes.

5 MR. VOGELMAN: Yes, your Honor. I have discussed it
6 with Ms. Reyes, and she waives her appearance either by video
7 or in person and consents to me conducting this teleconference.
8 I have e-mailed her a copy of the indictment. We reviewed it.
9 We discussed it on the phone. She understands the indictment.
10 And on her behalf I enter a plea of not guilty.

11 THE COURT: Thank you, Mr. Vogelmann.

12 And she waives its public reading, I assume,
13 inherently?

14 MR. VOGELMAN: Yes, your Honor. She waives the public
15 reading.

16 THE COURT: Mr. Donaldson, on behalf of DeeJay White.

17 MR. DONALDSON: Yes, your Honor, good afternoon.

18 With the permission of Mr. White and after explaining
19 his rights of a physical video or telephonic appearance, he has
20 authorized me to waive his right to appear for this conference
21 today. I did receive the superseding indictment. I read it to
22 Mr. White. I allowed him to read and review the indictment.
23 He understood the charges. He waives his right to a public
24 reading, and he has authorized me to enter a plea of not guilty
25 on his behalf.

1 THE COURT: Thank you, Mr. Donaldson. A plea of not
2 guilty will be entered for Mr. White.

3 Now, with regard to Mr. Martinez, Ms. Cantwell, may I
4 suggest the following. Have you had voice contact with
5 Mr. Martinez at this stage of the game?

6 MS. CANTWELL: We have not, your Honor. And we just
7 got the indictment, obviously.

8 THE COURT: Obviously.

9 So this is what I am going to direct you to do. You
10 will contact your client. It will cause him to read or have
11 read to him the contents of the indictment. And when you're in
12 that position to enter a plea or be arraigned, please contact
13 Ms. Murray, and then you and Ms. Murray can arrange with my
14 deputy for an arraignment for Mr. Martinez. If he would like
15 to participate, that would be fine. But that's what I propose
16 we will do here.

17 MS. CANTWELL: That sounds great, your Honor.

18 THE COURT: Now, let me ask the government about the
19 state of discovery in this case.

20 MS. MURRAY: Yes, your Honor. We have produced
21 limited discovery in this case to all defendants except for
22 Mr. Martinez. I'll reach out to Ms. Cantwell and arrange to
23 have a hard drive provided to our office so we can load the
24 discovery.

25 We will have small additional production for all of

1 the defendants relating to the S5 indictment which we can
2 produce within the next two weeks.

3 THE COURT: Now, it's going to take time for
4 Mr. Martinez to be arraigned and to review the discovery
5 heretofore. It will also require some time for the defendants
6 who are going to be getting discovery on the superseder to
7 review that discovery, discuss it with their clients, and be in
8 a position to advise whether there are any motions they wish to
9 make in this case.

10 Ms. Sharkey, I don't mean to put you in the position
11 of going first, but I will. Any thoughts on when you would be
12 in a position to return to advise me about any motions in this
13 case.

14 MS. SHARKEY: Judge, I believe there has been a status
15 conference scheduled for December, and I would be ready at that
16 point in time to advise the Court of motions that I would like
17 to file on my client's behalf.

18 THE COURT: When do you have that down for?

19 MS. SHARKEY: Let me get -- perhaps I'm hallucinating.

20 MR. DONALDSON: It's December 16, Judge, at 4:00 p.m.

21 MR. LEADER: I believe that was in the Court's prior
22 order scheduling this conference, if I'm not mistaken.

23 THE COURT: One moment. It will just give me the
24 chance to catch up with everybody else.

25 During the COVID era it is readily apparent to all how

1 much judges depend on their staff. I see it's on my calendar
2 for 4 p.m. on December 16. Would it be convenient for all
3 defendants to return on that date and advise me whether there
4 are any motions they have in this case?

5 Mr. Leader, is that convenient?

6 MR. LEADER: Yes, indeed, your Honor.

7 THE COURT: Mr. Vogelmann.

8 MR. VOGELMAN: Yes, your Honor.

9 THE COURT: Mr. Donaldson.

10 MR. DONALDSON: Yes, your Honor.

11 THE COURT: Ms. Cantwell.

12 MS. CANTWELL: That's fine, Judge. Thank you.

13 THE COURT: Has time been excluded until the 16th at
14 this stage, Ms. Murray?

15 MS. MURRAY: Yes, your Honor, it has been, pursuant to
16 the letter motion that was submitted which your Honor endorsed.

17 THE COURT: I don't know if that encompasses
18 Mr. Martinez, so I think for the sake of good order, unless you
19 have some indication that it doesn't encompass Mr. Martinez,
20 perhaps you should make an application, at least with regard --

21 MS. MURRAY: Yes, your Honor, I will. Of course.

22 Your Honor, the government would move to exclude time
23 under the Speedy Trial Act between now and December 16, 2020,
24 to permit the parties to produce additional discovery that the
25 government has prepared, to provide the defendant sufficient

1 time to review that discovery, and also to permit time to
2 engage in discussions regarding potential pretrial resolution
3 of this matter. We submit that the exclusion would be in the
4 interests of justice.

5 THE COURT: Ms. Cantwell, do you know of any basis to
6 object to that?

7 MS. CANTWELL: No, your Honor. That's fine by us.
8 Thank you.

9 THE COURT: I find that the ends of justice will be
10 served by granting a continuance to December 16 and the need
11 for the continuance outweighs the best interests of the public
12 and the defendant in a speedy trial.

13 The reasons for my finding are that the time is needed
14 to enable defendant Martinez to receive the discovery in this
15 case, to review that discovery, to be arraigned in this case,
16 get up to speed with his counsel and for counsel to get up to
17 speed on the case, and to be in a position to return to advise
18 the Court whether there are any motions he wishes to make in
19 this case. Reliance on the fact that time has already been
20 excluded for all other defendants until December 16, I'm now
21 excluding time in the case of Jason Martinez for his review of
22 discovery in this case. Accordingly, the time between today
23 and December 16 is excluded under the Speedy Trial Act.

24 Anything further from the government?

25 MS. MURRAY: No. Thank you, your Honor.

1 THE COURT: Anything further from any defendant?

2 MS. SHARKEY: No, your Honor.

3 MS. CANTWELL: No, Judge. Thank you.

4 MR. LEADER: No, your Honor.

5 MR. VOGELMAN: No, your Honor.

6 MR. DONALDSON: No, your Honor.

7 THE COURT: Thank you all very much. I appreciate it.

8 We are adjourned. Thanks.

9 (Adjourned)

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25